

TAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Target Brands, Inc. ,  
Opposer,  
v.  
Shaun N.G. Hughes,  
Applicant.

No. 91163556

ANSWER TO NOTICE OF  
OPPOSITION



02-01-2005

U.S. Patent & TMO/TM Mail Rcpt Dt. #66

Shaun N.G. Hughes ("Applicant"), an individual and president of Sun Precautions, Inc., having an address of 2815 Wetmore, Everett, Washington 98203, sets forth the following Answer to the Notice of Opposition filed by Target Brands, Inc. ("Opposer").

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1 of the Opposition and, therefore, denies same.

2. Applicant denies that Opposer has a real interest in the registration of Applicant's mark and denies that Opposer's use or proposed use of the term Ultimate Polo is lawful descriptive use. Applicant notes that the attachments to the copy of the Notice of Opposition it received bore no identification as to Exhibit letter. Applicant is without knowledge or information sufficient to form a belief as to the truth of Opposer's intent to use the term Ultimate Polo in connection with its line of polo shirts.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 3 of the Opposition and, therefore, denies same. Further, Applicant denies that the trademark Ultimate Polo should not be controlled by one person or entity and should remain in the public domain for all to use and further denies that if Applicant should receive its registration that anyone would be precluded from making

1 legitimate descriptive use of the phrase ultimate polo as authorized by 15 U.S.C.  
2 § 1115 (b) (4).

3 4. Applicant denies the allegations in paragraph 4 of the Opposition.

5 5. Applicant denies the allegations in paragraph 5 of the Opposition.

6 6. Applicant denies the allegations in paragraph 6 of the Opposition.

7 7. Applicant denies the allegations in paragraph 7 of the Opposition and notes  
8 that Applicant has acquired rights in the trademark ULTIMATE POLO for sun protective  
9 clothing for men, women and children, namely shirts, based upon its more than twelve years  
10 of use of the mark in connection with such goods.  
11

12 WHEREFORE, Applicant respectfully requests that:

13 A. Opposition No. 91163556 be dismissed with prejudice;

14 B. Application Serial No. 78/170,846 be passed to registration; and

15 C. such other relief as is deemed proper and just be granted.  
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18 Dated this 28th day of January 2005.  
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21 CHRISTENSEN O'CONNOR  
22 JOHNSON KINDNESS<sup>PLLC</sup>

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25 \_\_\_\_\_  
26 James R. Uhler, Registration No. 25,096  
27 Attorney for Applicant Shaun N.G.  
Hughes

CERTIFICATE OF MAILING

I hereby certify that this Answer to Notice of Opposition is being deposited with the U.S. Postal Service in a sealed envelope as first class mail with postage thereon fully prepaid and addressed to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office, P.O. Box 1451, Alexandria, VA 22313-1451, on the below date.

Date:

January 28, 2005

Carol J. Darling

CERTIFICATE OF SERVICE

I hereby certify that on the 28<sup>th</sup> day of January 2005, a true copy of the foregoing Answer to Notice of Opposition was served on counsel for Opposers by depositing a true and correct copy thereof in the United States mail in a sealed envelope with postage thereon fully prepaid, addressed as follows:

Vanessa Ignacio, Esq.  
Lowenstein Sandler PC  
65 Livingston Avenue  
Roseland, New Jersey 07068

Executed on: January 28, 2005

Carol J. Darling